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Certificate of Mailing (37 C.F.R. §1.8a)



I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 2, 2004.

Laura Custer
Laura Custer

Date 12/02/04

Certificate
MAR 30 2005
of Correction

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	6,433,780	Issued:	August 13, 2002
Inventor(s):	Gary B. GORDON et al	Group Art Unit:	2675
Serial No.:	09/753,805	Examiner:	Steven Saras
Filed:	January 2, 2001		
Title:	SEEING EYE MOUSE FOR A COMPUTER SYSTEM		
Attorney Docket No.:	10980359-06		

**SUPPLEMENT TO FILING ON 11/22/04 OF
REQUEST FOR CERTIFICATE OF CORRECTION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patent owner filed a Request for Certificate of Correction for the above referenced patent on November 22, 2004 which was intended to include a Petition to Accept Unintentionally Delayed Claim in Support of a Request for Certificate of Correction, Request for Certificate of Correction, Certificate of Correction, Copy of Request for Certificate of Correction for USP 6,281,882, and return receipt postcard.

A review of our file copies indicates that the Request may not have been included. If the Request was not included in the original filing, please use the attached Request. If the Request was included with the original filing so that the attachment to this letter is a copy,

MAY 10 2005

please do not charge our deposit account twice.

Respectfully submitted,

Counsel for Agilent Technologies, Inc.

By: /Norman E. Brunell Reg. #26533/
Norman E. Brunell, Reg. No. 26,533
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Loveland, Colorado 80537-0599
Customer No. 022878

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Laura Custer
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Date

12/02/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 6,433,780

Issued: August 13, 2002

Inventor(s): Gary B. GORDON et al

Group Art Unit: 2675

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Examiner: Steven Saras

Filed: January 2, 2001

Title: SEEING EYE MOUSE FOR A COMPUTER SYSTEM

Attorney Docket No.: 10980359-06

**REQUEST FOR CERTIFICATE OF CORRECTION
UNDER 37 C.F.R. § 1.323**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

12/10/2004 SFELEKE2 00000129 501078 6433780
01 FC:1811 100.00 DA

Sir:

Agilent Technologies, assignee of the entire interest in the above-identified patent, respectfully request a Certificate of Correction to be issued in accordance with 37 CFR 1.323.

The undersigned represents Agilent Technologies, Inc., the assignee of U. S. patents 5,786,804 (the "'804 patent"), 6,281,882 (the "'882 patent") and 6,433,780 (the "'780 patent"). The assignment(s) to Agilent Technologies, Inc. are recorded for the '804 patent at 012143/0895 and 015232/0278; for the '882 patent at 012143/0895 and for the '780 patent at 012143/0895.

This request for a Certificate of Correction is to correct a mistake made in U. S. patent application serial number 09/753,805 (the "'805 application"), which issued as the

~~Adjustment date: 12/10/2004 SFELEKE2~~
~~12/09/2004 SFELEKE2 00000041 501078 6281882~~
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'780 patent, of failing to properly claim priority under 35 U.S.C. 120 as a continuation of a continuation-in-part application of the '804 patent. A similar request for a Certificate of Correction was filed on November 22, 2004 to correct a mistake made in U. S. patent application 09/052,046 (the "'046 application") which issued as the '882 patent.

In accordance with MPEP §1003, this request for Certificate of Correction of the '780 patent is expected to be submitted by the Examiner to the appropriate Technology Center Director because this request is for a patent known to be in litigation and deals with a legal matter, *i.e.* the insertion or correction of a cross reference to a prior copending application. Further, because this request requires the issuance of a Certificate of Correction resulting from the request for correction of the '882 patent, it is expected that the Technology Center Director may chose to consider these requests together. A copy of the request for a Certificate of Correction for the '882 patent is therefore attached hereto for convenience so that these requests can be processed efficiently.

With regard to the present request, the errors which appear in the '780 patent were not the fault of the Patent and Trademark Office and resulted from applicant's mistake in failing to make a reference to the '804 patent, indicating the relationship of the applications, in the first sentence following the title in accordance with 37 CFR 1.78(a)(2). Corrections for these errors are shown on the enclosed form PTO/SB/44.

These errors were discovered recently in the course of litigation involving the '780 patent. The mistake is believed to have been a clerical mistake made in good faith because it was the practice of the applicant at the time of filing the '805 application to make all such claims of priority under 35 U.S.C. 120 and no other reason for the failure to properly claim priority is known after inquiry by applicant's counsel. Correction of the errors would not constitute new matter or require reexamination.

As noted in MPEP §1481, a Certificate of Correction can be used, with respect to 35 U.S.C. 120 priority, for applications filed on or after November 29, 2000 to correct the failure to make reference to, or to correct an incorrect reference to, a prior copending

application pursuant to 37 CFR 1.78(a)(2) under the following conditions applicable to the present request:

- (a) all the requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;
- (b) the prior copending application to be added via the Certificate of Correction must be identified elsewhere (other than the first sentence of the specification following the title or in an application data sheet) in the application papers;
- (c) it must be clear from the record of the patent and the parent application(s) that priority is appropriate; and
- (d) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

Referring now to par. (a) above, all the requirements of 37 CFR 1.78(a)(1) were met in the '805 application. In particular,

- i) Mr. Gary B. Gordon, the sole inventor named the '804 patent, is named as a joint inventor in the '882 patent and also in the '805 application, which claims priority as a continuation of U. S. patent application serial number 09/052,046 (the "'406 application") which issued as the '882 patent.
- ii) Mr. Gordon's contribution to at least one of the claims as filed in the '805 application was disclosed in the prior filed '355 application in the manner provided by the first paragraph of 35 U.S.C. 112 as noted in the Office Action mailed 05/23/00 (Paper No. 5) in the '046 application in which independent claim 1 was rejected in part over the disclosure of the claimed optical motion detection circuit in Col. 3, lines 30-62 of the '804 patent. The claims as filed in the '805 application also included the optical motion detection circuit.
- iii) The '355 filed application which issued as the '804 patent, and the '046 application which issued as the '882 patent, were entitled to filing dates as set forth in 37 CFR § 1.53(b) and included the basic filing fees set forth in 37 CFR § 1.16.

Referring now to par. (b) above, the '355 application, which had already issued as the '804 patent, was identified in page 2, lines 14 through 16, of the '805 application as filed, which stated:

"This application is also related to the subject matter described in U.S. Patent 5,786,804 filed October 1995, entitled METHOD AND SYSTEM FOR TRACKING ATTITUDE, issued 28 July 1998, and also assigned to Hewlett-Packard Co."

As noted above, these patents have been assigned to Agilent Technologies, Inc.

Referring now to (c) above, the '805 application was filed January 2, 2001, claiming the priority the then copending '046 application which was filed March 30, 1998 which issued August 28, 2001 as the '882 patent. A request for a Certificate of Correction of the '882 patent is filed on even date herewith and when issued will cause the record to show that the '046 application claims the priority of the then copending '355 application filed October 6, 1995 which issued July 28, 1998 as the '804 patent.

Referring now to (d) above, this request for Certificate of Correction of the '780 patent is accompanied by a petition to accept an unintentionally delayed claim for the benefit of a prior application as required by 37 CFR 1.78(a)(3) and the surcharge set forth in 37 CFR 1.17(t).

It is therefore respectfully requested that a Certificate of Correction in accordance with the enclosed form PTO/SB/44 be issued.

Please charge \$100.00 for the fee set forth under 37 C.F.R. § 1.20(a) for the certificate of correction to Deposit Account **50-1078**. Please charge any deficiencies in connection with this communication, or credit any overpayment, to Deposit Account **50-1078**.

It is believed that the issuance of a Certificate of Correction is appropriate to correct these errors. However, if the Patent and Trademark Office rules that a Certificate of Correction is not needed, it is requested

that this letter be entered into the patent file and the patentees so notified.

Respectfully submitted,

Counsel for Agilent Technologies, Inc.

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